

Sixth Appellate District

San Jose, California

MONDAY, JUNE 9, 2003

H024244 PEOPLE v. HAMPTON

The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,
Wunderlich, J.)
Filed June 9, 2003

H023839 GRANT v. COMP USA, INC.

The denial of the judgment notwithstanding the verdict is
affirmed. (published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,
Wunderlich, J.)
Filed June 9, 2003

H024423 HARDY v. HARDY

The judgment is affirmed. Wife shall be entitled to her
costs on appeal. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,
Wunderlich, J.)
Filed June 9, 2003

TUESDAY, JUNE 10, 2003

H024580 In re STEVEN G., a Minor; DFCS v. LACI G.

The order of the juvenile court is reversed, and the matter
is remanded to the juvenile court with directions to determine
whether the Department provided the appropriate notification
under the ICWA. If, after the issue has been litigated and the
juvenile court determines that the ICWA does not apply to the
instant case, then the juvenile court shall reinstate the order.
(not published)
(Mihara, J.; We concur: Rushing, P.J., Elia, J.)
Filed June 10, 2003

H024250 In re KEVIN G., JR.; DFCS v. CYNTHIA R., et al.

By the Court*:

Appellant Kevin G.'s petition for rehearing is denied.
Filed: June 10, 2003

*Before Rushing, P.J., Premo, J. and Elia, J.

Sixth Appellate District

San Jose, California

Tuesday, June 10, 2003 (continued)

H022545 BELLOWS, as Trustee, etc. v. POMPLUN

We find no abuse of discretion in the probate court's decision to surcharge Bellows for her deficient administration of the trust. (See *Estate of Bonaccorsi*, *supra*, 69 Cal.App.4th at p. 472.) However, while it appears that Bellows's conduct caused the trust to incur loss in the form of excessive storage fees and professional fees to accountants and attorneys that may have been duplicative, unnecessary or excessive, the record does not provide a basis for reasonably calculating the amounts attributable to Bellows's deficient administration of the estate. Therefore, we reverse the surcharge award and remand for further proceedings to allow the trial court to reconsider the amount of the surcharge based on evidence of fees paid for storage that were excessive or unnecessary, and fees paid to accountants or attorneys that were duplicative, unnecessary or excessive.

The parties shall bear their own costs on appeal. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed June 10, 2003

H025040 PEOPLE v. ANGEL B.

The disposition order is reversed. The matter is remanded to the juvenile court for the limited purpose of having the court recalculate the precommitment custody credits. (not published) (Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Sixth Appellate District

San Jose, California

Tuesday, June 10, 2003 (continued)

H023176 BELLOWS, as Trustee etc. v. POMPLUN

The judgment is reversed and remanded with the following directions, consistent with the views expressed in this opinion. The probate court is directed to enter a new judgment requiring Bellows, in her capacity as trustee, to reimburse Pomplun for reasonable attorney fees solely from any surcharge fund ultimately ordered by the court to be paid to the trust. The court is further directed to reduce the fee award by the amounts charged by Pomplun's attorneys in prosecuting the opposition to the petition for determination of proration of estate tax and the petition prohibiting disbursements from the estate without prior court order. Legal fees for these services are not authorized under the common fund and substantial benefit theories, and we cannot determine the amount of such fees based on the record before us.

Pomplun's request for sanctions is denied.

The parties shall bear their own costs on appeal. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed June 10, 2003

H023975 PEOPLE v. GARCIA

By the Court*:

Appellant's petition for rehearing is denied.

Filed: June 10, 2003

*Before Bamattre-Manoukian, Acting P.J., Wunderlich, J. and Mihara, J.

WEDNESDAY, JUNE 11, 2003

H024488 PEOPLE v. AVALOS

(Filed order modifying opinion.) The petition for rehearing is denied. This modification does not effect a change in the judgment. (not published)

(Bamattre-Manoukian, Acting P.J., Wunderlich, J., Mihara, J.)

Filed June 11, 2003

Sixth Appellate District

San Jose, California

Wednesday, June 11, 2003 (continued)

H024992 PEOPLE v. EZEKIEL T.

The dispositional order is affirmed. (not published)
(Mihara, J.; We concur: Rushing, P.J., Elia, J.)
Filed June 11, 2003

H023433 PEOPLE v. NGUYEN, et al.

By the Court*:

The petition for rehearing is granted.
Filed: June 11, 2003
*Before Rushing, P.J., Elia, J. and Wunderlich, J.

H023589 ATKINSON v. ELK CORPORATION, etc.

The judgment is reversed. The matter is remanded to the trial court with instructions to grant Atkinson leave to amend the complaint consistent with this opinion. Each party to bear its own costs on appeal. (published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 11, 2003

H024301 PEOPLE v. O'DELL

By the Court*:

Appellant's petition for rehearing is denied.
Filed: June 11, 2003
*Before Rushing, P.J., Premo, J. and Wunderlich, J.

THURSDAY, JUNE 12, 2003

H024417 In re CYNTHIA R.; DFCS v. CYNTHIA R., et al.

By the Court*:

Appellant Kevin G.'s petition for rehearing is denied.
Filed: June 12, 2003
*Before Premo, Acting P.J. and Wunderlich, J.

H024417 In re CYNTHIA R.; DFCS v. CYNTHIA R., et al.

By the Court*:

Appellant Cynthia R.'s petition for rehearing is denied.
Filed: June 12, 2003
*Before Premo, Acting P.J. and Wunderlich, J.

Sixth Appellate District

San Jose, California

Thursday, June 12, 2003 (continued)

H024261 PEOPLE v. MAYRA N.

By the Court*:

Appellant's petition for rehearing is denied.

Filed: June 12, 2003

*Before Rushing, P.J., Elia, J. and Wunderlich, J.

H023660 PEOPLE v. FELIX

By the Court*:

Appellant's petition for rehearing is denied.

Filed: June 12, 2003

*Before Rushing, P.J., Premo, J. and Wunderlich, J.

H024993 STORY v. SUPERIOR COURT; PEOPLE

Let a peremptory writ of mandate issue directing respondent court to vacate its order granting the motion of real party in interest to allow release of petitioner's Veterans Administration Hospital psychotherapy records pursuant to subpoena duces tecum and denying petitioner's motion to quash the subpoena duces tecum, and to enter a new order denying the motion to allow release of petitioner's Veterans Administration Hospital psychotherapy records pursuant to subpoena duces tecum and granting the motion to quash the subpoena duces tecum. The temporary stay order is vacated, effective upon finality of this decision.

(published)

(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed June 12, 2003

FRIDAY, JUNE 13, 2003

H024486 PEOPLE v. YET

The reimbursement requirement ordered by the trial court pursuant to Penal Code section 987.8 is a civilly enforceable order, not a condition of probation. As so clarified, the judgment is affirmed. (not published)

(Mihara, J.; We concur: Rushing, P.J., Wunderlich, J.)

Filed June 13, 2003

H024266 FRESH GROUP, INC. v. WU, et al.; CHEN

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed June 13, 2003

Sixth Appellate District

San Jose, California

Friday, June 13, 2003 (continued)

H024208 PEOPLE v. CHAMBERS

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Rushing, P.J., Elia, J.)
Filed June 13, 2003

H024139 PEOPLE v. HERNANDEZ

By the Court*:
Respondent's petition for rehearing is denied.
Filed: June 13, 2003
*Before Rushing, P.J., Premo, J. and Elia, J.

H024926 ROBERT B. v. DENISE B.; SUSAN B.

The judgment is affirmed. The parties shall bear their own
costs on appeal. (published)
(Elia, J.; We concur: Rushing, P.J., Mihara, J.)
Filed June 13, 2003

H024419 SOWARDS v. STARR, et al.

The judgment is affirmed. Appellant shall bear costs on
appeal. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 13, 2003